



# Federal Brownfields Tax Incentive

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## Introduction

A federal tax incentive to encourage the cleanup of brownfields has been extended for two years until December 31, 2005. Eligible taxpayers in Wisconsin have led the nation in utilizing this federal tax incentive for cleanup costs since 1998, when it first became available. The incentive allows claim of qualified environmental remediation costs as deductions in the year incurred, rather than being spread out over several years. The deductions reduce a taxpayer's federal tax burden.

## Requirements

For costs paid or incurred starting December 21, 2000, through December 31, 2005, the eligibility requirements for the Brownfields Tax Incentive are:

- the property must be held by the taxpayer incurring the eligible expenses;
- the property must be held for use in a trade or business or for the production of income;
- a hazardous substance must be present or potentially present on the property; the Brownfields Tax Incentive defines "hazardous substance" as any substance that is defined under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), **excluding petroleum and products that are a part of the building** (Please see box on this page for more information); and

- the property may not be listed, or proposed to be listed, on the U.S. Environmental Protection Agency's (EPA) National Priorities List (NPL). The current sites are listed in the Wisconsin Department of Natural Resources (DNR) publication entitled "Superfund Sites In Wisconsin" (publication #RR-005). The fact sheet is available on the DNR's Remediation and Redevelopment (RR) web site at [http://dnr.wi.gov/org/aw/rr/archives/pub\\_index.html](http://dnr.wi.gov/org/aw/rr/archives/pub_index.html)

### What is a CERCLA Hazardous Substance?

A federal hazardous substance, as defined in section 101(14) of CERCLA, 1980 is:

(A) any substance designated pursuant to section 311(b)(5)(A) of the Federal Water Pollution Control Act,

(B) any element, compound, mixture, solution or substance designated pursuant to section 102 of this Act,

(C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress),

(D) any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act,

(E) any hazardous air pollutant listed under section 112 of the Clean Air Act, and

(F) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas useable for fuel (or mixtures of natural gas and such synthetic gas).



Wisconsin Department of Natural Resources  
PO Box 7921, Madison, WI 53707



## Eligible Costs

Eligible costs for the Brownfields Tax Incentive include expenses associated with the abatement or control of hazardous substances at a qualified site.

Eligible expenses include:

- site assessment costs;
- site investigation costs;
- site monitoring costs;
- remediation costs;
- operation and maintenance costs;
- state voluntary cleanup program fees; and
- costs incurred for the removal of demolition debris.

The DNR cannot determine which project costs are eligible. Please consult a tax advisor for information on eligible expenses and to obtain the proper forms to send to the Internal Revenue Service.

## How to Get the Brownfields Tax Incentive

**Step 1:** Determine whether you meet the requirements listed in the previous section of this publication.

**Step 2:** Consult a tax advisor to find out which investigation and cleanup costs may be deducted.

**Step 3:** Obtain a statement from the DNR that certifies that your site meets the hazardous substance release, threatened release or disposal requirements for the deduction.

To obtain this statement, fill out Form 4400-206, which is available on the RR's web site at [http://dnr.wi.gov/org/aw/rr/archives/pub\\_index.html#forms](http://dnr.wi.gov/org/aw/rr/archives/pub_index.html#forms)

Submit this form and supplemental information to the address listed on the form. The DNR will either send a letter certifying that the property meets the requirements of Internal Revenue Code

Section 198(c)(1)(B), or a letter explaining why the certification cannot be given.

## For More Information

Please see EPA's web site at <http://www.epa.gov/swerosps/bf/bftaxinc.htm>, for more information on the federal Brownfields Tax Incentive, or to read about successful case studies involving this tax incentive.

For general information or details regarding the DNR's certification for this tax deduction, please call the DNR's Brownfields Section at 608-266-9263.

Additional federal and state brownfield financial programs may be found in the *Financial Resource Guide for Cleanup and Redevelopment* (publication #RR-539), available at:  
<http://dnr.wi.gov/org/aw/rr/archives/pubs/RR539.pdf>

To download this or any other publications, or to find out more information about the Remediation and Redevelopment Program, please see the RR web site at:  
<http://dnr.wi.gov/org/aw/rr>

This document contains information about certain federal statutes and regulations but does not include all of the details found in the statutes or regulations. Readers should consult the actual language of the statutes or regulations to answer specific questions.

The Wisconsin Department of Natural Resources provides equal opportunity in its employment, programs, services, and functions under an Affirmative Action Plan. If you have any questions, please write to Equal Opportunity Office, Department of Interior, Washington, D.C. 20240.

